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ATTORNEYS FOR THE UNITED STATES

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLIVEN BUNDY,

Defendant.

No. 2:98-cv-531-LRH

**DECLARATION BY
ALICE C. NEWTON**

DECLARATION BY ALICE C. NEWTON

I, Alice C. Newton, do declare as follows:

I have personal knowledge of the matters set forth in this declaration.

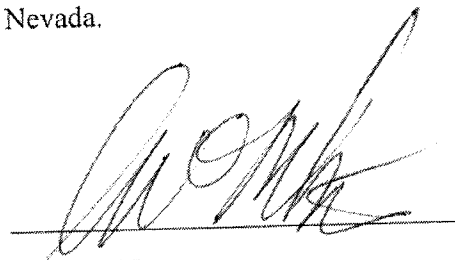
1. I am the Vegetation Branch Chief for the United States Department of the Interior, National Park Service (NPS) at Lake Mead National Recreation Area (Lake Mead NRA). I have served in my current position since June 2005 and have worked for the NPS since August 1991, all of that time at Lake Mead NRA. Prior to my current position, I was employed as a Biological Technician (1991 to 1998) and a Natural Resource Specialist (1998 to June 2005) at Lake Mead NRA. My responsibilities as Vegetation Branch Chief include supervising up to 10 employees, either Biologists or Biological Technicians, and management of soils, rare and exotic plants, plant propagation and restoration, grazing management, and the response to impacts from grazing within Lake Mead NRA.
2. As part of my responsibilities, I am personally familiar with the current conditions, status, and trends of the vegetation and soils within the portion of Lake Mead NRA affected by trespass and stray cattle which includes the west side of the Overton Arm of Lake Mead from Echo Bay north to the northern boundary of Lake Mead NRA and along the east side of the Overton Arm of Lake Mead to the Arizona state line, and referred to as the Overton Arm/Gold Butte Area (Overton Arm/Gold Butte Area). The Overton Arm/Gold Butte Area corresponds to the area marked as "Former Bunkerville Allotment" and "New Trespass Lands" within Lake Mead NRA shown on the map attached to this declaration as Attachment A. Also as part of my responsibilities, I routinely review and read reports or attend oral presentations and briefings by Lake Mead NRA staff supervised by me on the conditions of vegetation and habitats within the Overton Arm/Gold Butte Area, the presence of cattle within Lake Mead NRA, and any damage or other impacts from cattle to vegetation, habitats, and other resources within the Overton Arm/Gold Butte Area of Lake Mead NRA.
3. As the Vegetation Branch Chief, I am responsible for the management of several rare and endangered plant species and habitat management for several rare and endangered animal species for the NPS in the Overton Arm/Gold Butte Area. Some of my duties include conducting annual surveys of rare plants to determine status, condition, and trends and surveys of habitat as the need arises or in response to a request by other Lake Mead NRA management or staff. If the plant or habitat surveys indicate that further management action is warranted, I initiate those actions or make requests to Lake Mead NRA management that actions be taken.
4. I and Lake Mead NRA staff supervised by me have routinely observed and documented occurrences of trespass and/or stray cattle in the Overton Arm/Gold Butte Area over the last decade, including the particular documentation set out below in paragraphs 5 and 6.
5. On February 17, 2009, I participated in an aerial survey by fixed wing aircraft over the Overton Arm/Gold Butte Area-- one day of a multi-day (February 11-13, 17, 2009) aerial survey of cattle within Lake Mead NRA in which I participated. The following Lake Mead NRA staff also participated in the survey: Chris Roberts, Bruce Lenon, and Toshi

Yoshida. Chris Roberts and Toshi Yoshida are former Lake Mead NRA staff supervised by me. A true and correct copy of the report of the aerial survey prepared by Chris Roberts is attached to this declaration as Attachment B. Pages 5 and 6 of Attachment B pertain to cattle within the Overton Arm/Gold Butte Area. A true and correct copy of a report that I prepared showing the locations of the cattle is attached to this declaration as Attachment C. We documented a total of 87 head of cattle within the boundaries of Lake Mead NRA in the Overton Arm/Gold Butte Area as shown on the map on page 6 of Attachment B. More specifically, we documented 17 head of cattle within the Former Bunkerville Allotment just north of Virgin River bowl and 20 head near Fish Island on or near the boundary of the Former Bunkerville Allotment. The remaining 50 head of cattle within the Overton Arm/Gold Butte Area were located on New Trespass Lands as shown on page 6 of attachment B. Because the survey described in this paragraph was conducted from a plane, we were not able to identify whether there were any brands or earmarks on the cattle.

6. On February 15, 2011, I participated in an aerial survey by fixed-wing aircraft which documented 120 head in the Overton Arm/Gold Butte Area. The following Lake Mead NRA staff also participated in this survey: Chris Roberts, Bruce Lenon, and Cody Cole. Chris Roberts is a former Lake Mead NRA staff member supervised by me. A true and correct copy of a report that I prepared showing the locations of the cattle is attached to this declaration as Attachment D. More specifically, we documented 13 head of cattle within the Former Bunkerville Allotment between AR 114A and Red Bluff Spring as shown on the map at page 2 of Attachment D by red dots. The remaining cattle within the Overton Arm/Gold Butte Area were on New Trespass Lands, except five head were also observed just outside Lake Mead NRA near AR 112A. Because the survey described in this paragraph was conducted from a plane, we were not able to identify whether there were any brands or earmarks on the cattle.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

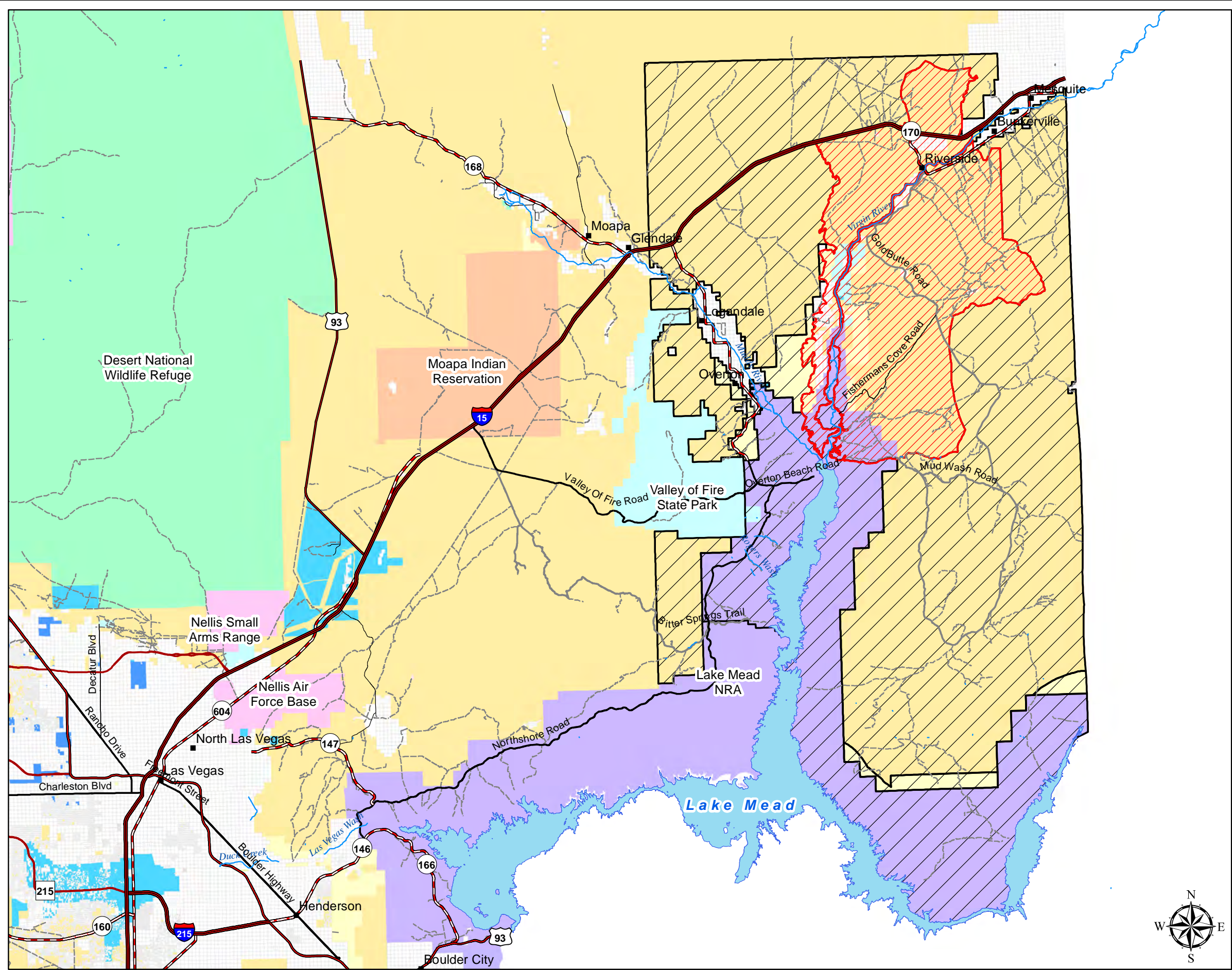
Signed this 4th day of March, 2013 at Boulder City, Nevada.



Alice C. Newton

ATTACHMENT A TO DECLARATION BY ALICE C. NEWTON

United States v. Bundy, No. 2:98-cv-531-LRH



Bundy Cattle Trespass Area Overview

Legend

Former Bunkerville Grazing Allotment	Land Status
New Trespass Land	Bureau of Indian Affairs
City Location	Bureau of Land Management
NHD Hydrology	Bureau of Reclamation
Major Road	City of Las Vegas
Interstate	Clark County, NV
US Highway	Department of Defense
State Highway	Department of Energy
County Highway	Fish and Wildlife Service
Arterial	Forest Service
Collector	National Park Service
Local	Nevada State
Back Country Byway	Private
Resource	Lake Mead
Restricted	

Prepared for
United States of America
v. Bundy
No. 98-cv-531
Not intended for any other use



ATTACHMENT B TO DECLARATION BY ALICE C. NEWTON

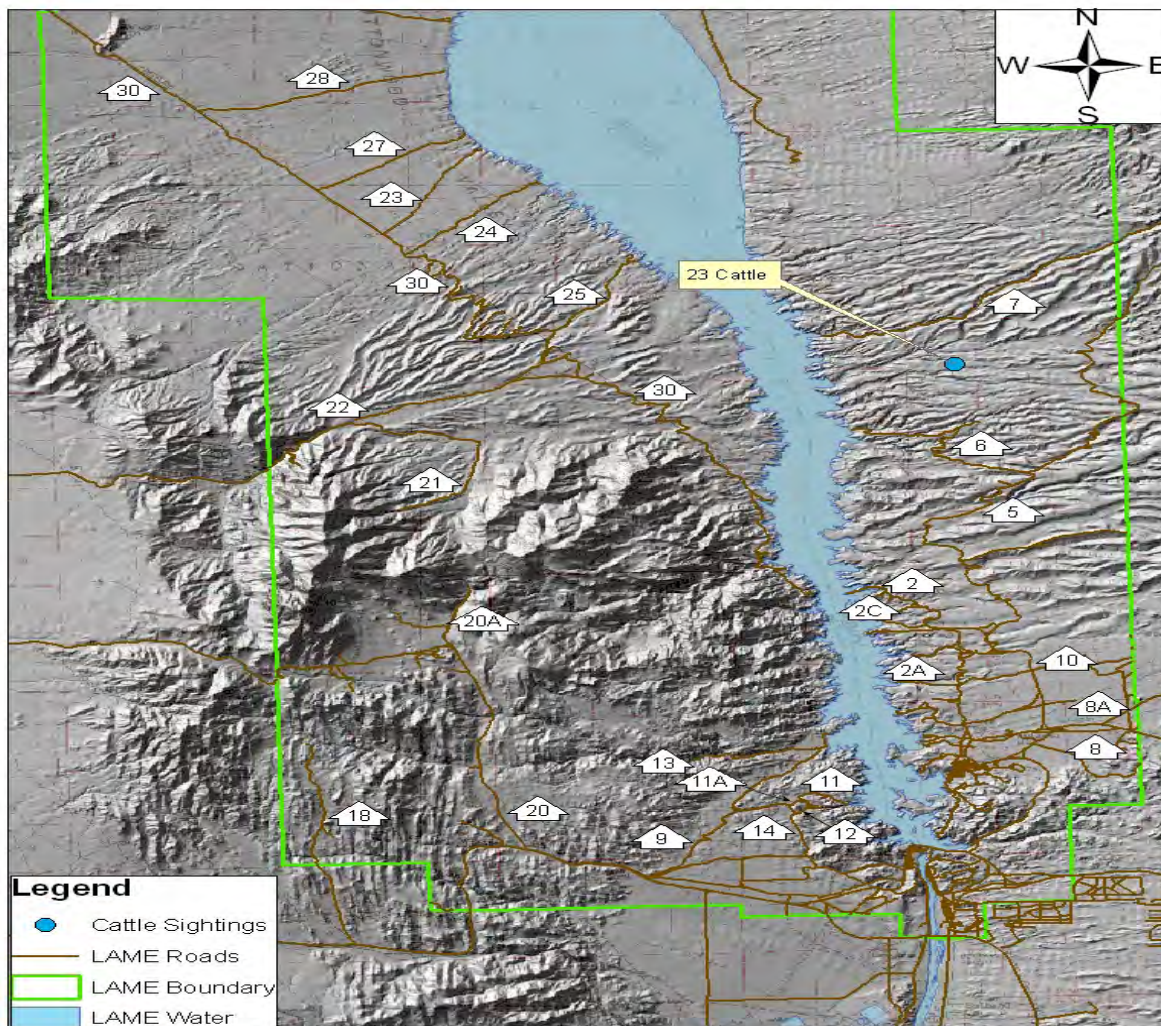
United States v. Bundy, No. 2:98-cv-531-LRH

Aerial Cattle Sightings:

02/11/09- Area was surveyed via fixed wing aircraft from Katherine's landing to Fire Mountain and from the border with BLM to the edge of Lake Mojave. The BLM open allotment that borders the area is Ft. McEwen Unit A.

Cattle were sighted well within LAME boundary nearby Portland Mine Road where original ground sighting was made. Cattle were Hereford, Angus, Brangus and Charolaise breeds with no discernable markings or tags. The one herd was observed loosely associated into four groups in and around Granite Wash. One group of 14 and one nearby group of 9 were observed. Many livestock trails (burro+cattle) were observed from the air going to and from lake edge.

Lat Long coordinates: N35°20.75' W114°33.56'

Map of general Portland Mine Road area with point for general herd sighting:

02/12/09- Area was surveyed via fixed wing aircraft from Mt Wilson across Detrital Wash to Temple Bar and from LAME boundary with BLM to Lake Mead edge at Bonelli Bay. The BLM open allotment that borders this area is Big Ranch Unit A and B.

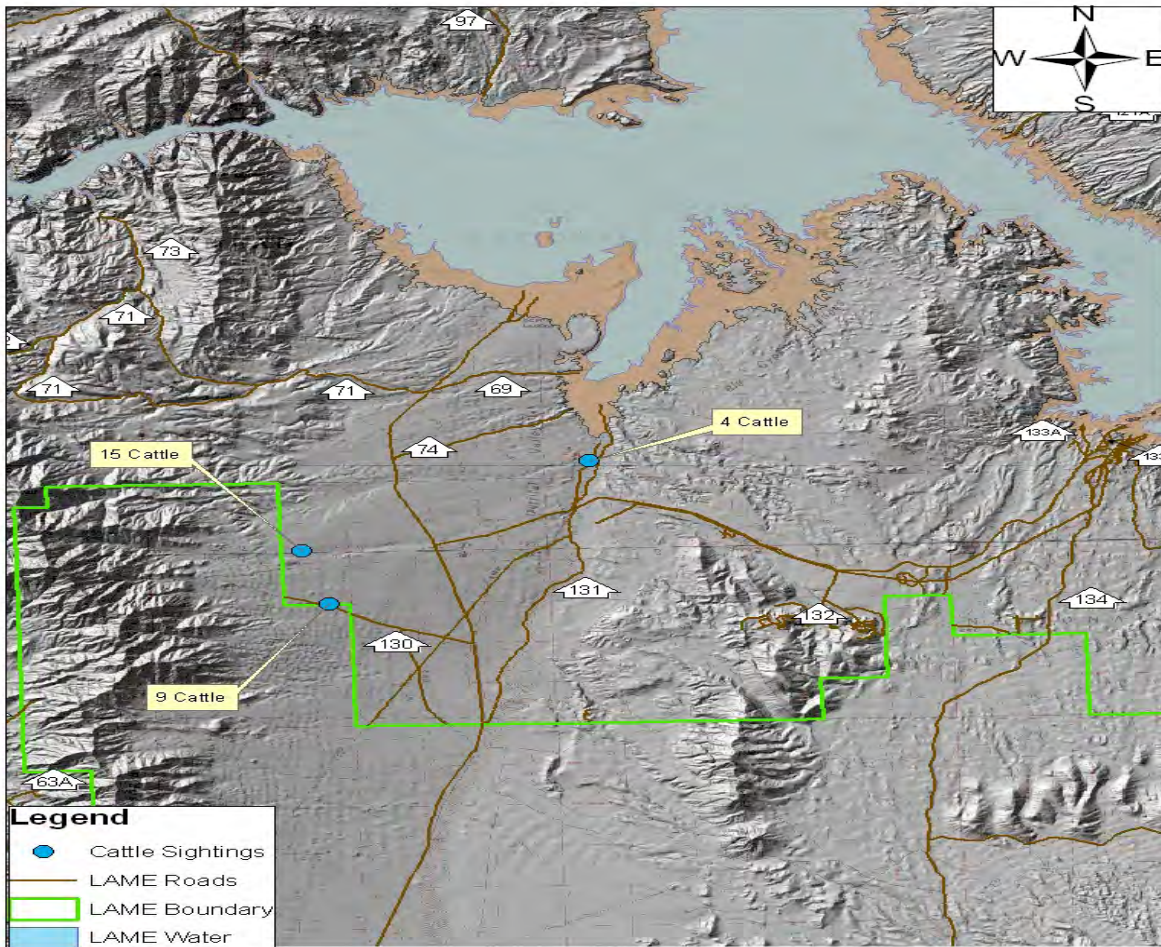
Cattle were sighted within LAME boundary near BLM border as well as far inside Lame boundary. Cattle were Hereford, Angus, Brangus and Charolaise breeds with no discernable markings or tags. There were two main herds both located in the area between Petroglyph Wash Road South to approved backcountry road AR130 near the LAME boundary. One herd of 15 including a brand new calf and one herd of 9 were observed. Another small group of four cattle were observed in Detrital Wash near the Temple Bar Road crossing. Many livestock trails (burro+cattle) were observed from the air going to and from Mt Wilson highland areas into Detrital Wash and towards the Lake edge.

Lat Long coordinates: N35°58.90' W114°32.23' - 9 head near rd AR130

N36°00.05' W114°32.64' -15 head in large wash South of Petroglyph Wash

N36°01.88' W114°27.98' -4 head in Detrital Wash N of Temple Bar road

Map of general Detrital Wash area with points for cattle sightings:

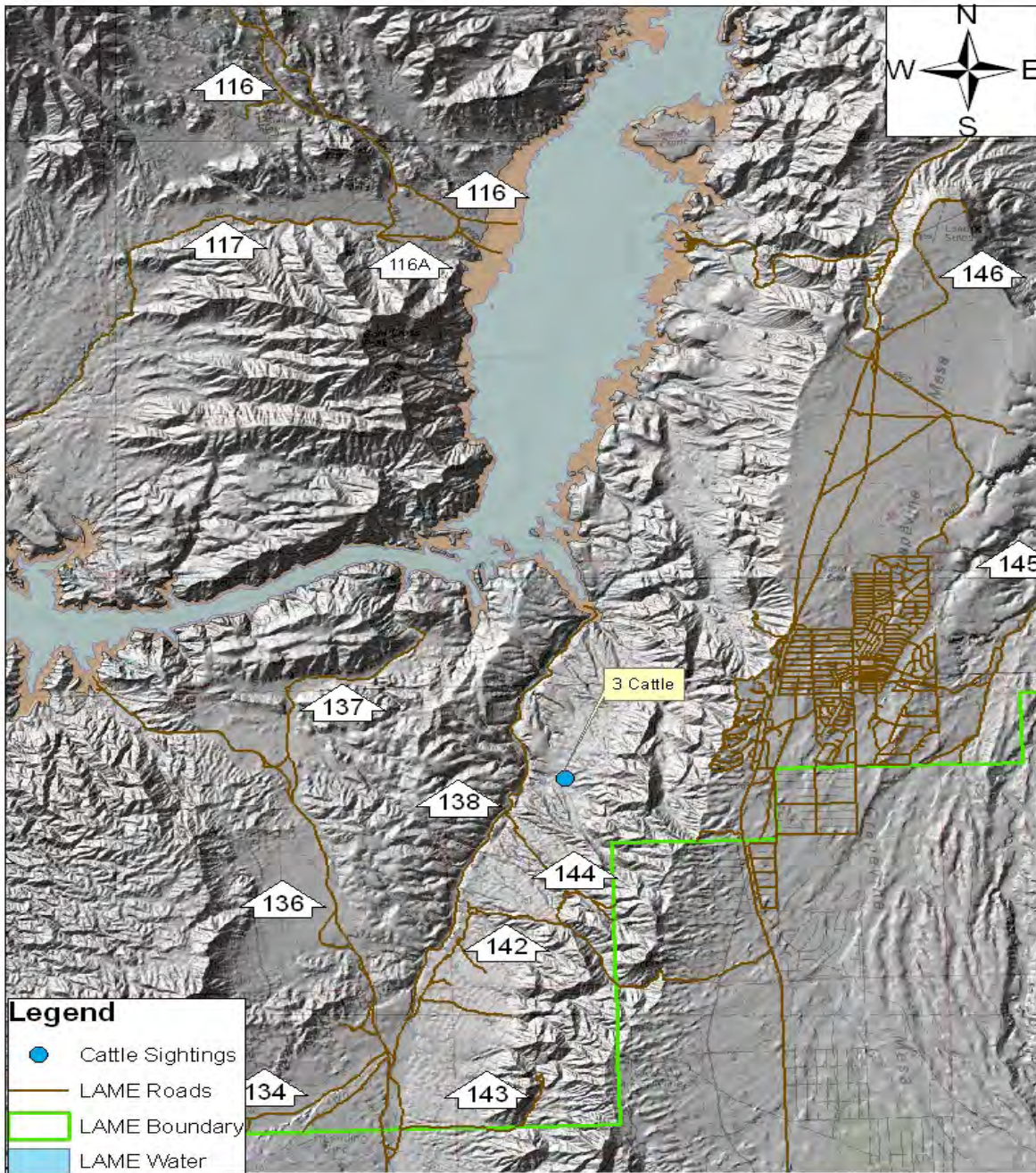


02/13/09- Area was surveyed via fixed wing aircraft from Temple Bar to Diamond Bar including Hualapai wash and Grapevine wash. The BLM open allotment closest was Diamond Bar.

Cattle were sighted well within LAME boundary up a side wash from Hualapai wash. Three head of Hereford breed cattle were observed directly North of the road to South cove.

Lat Long coordinates: N35°58.83' W114°07.87'

Map of general Hualapai wash area with a point indicating cattle sighting:



02/17/09- Area was surveyed via fixed wing aircraft from Catclaw wash along the Eastern shoreline below Gold Butte to the Northern-most Park boundary of the Virgin River. Also from the Northern-most Park boundary in the Muddy River across St Thomas down the Western shoreline past Overton Beach to Stewart's point. There are no open BLM allotments adjacent to this area. Cattle trailing, terracing and general damage is visible and extensive from aerial view!!!

Overton Beach herd: Cattle were sighted well within Park boundary near Overton Beach housing where contemporary ground sightings purported. Three head were observed at newly erected, open, cattle enclosures just North of Overton Beach Housing. 12 head were observed on Anne Margerett beach which is South of Overton Beach Housing along Overton Beach road spur and nearing Stewart's point. 15 head were observed all together. All cattle were mixed breed white face.

One large solitary (dangerous) Brendal Brahma bull was observed near road 110 on LAME boundary near St. Thomas.

Lat Long coordinates: N36°29.10' W114°24.24' –solitary Brahma bull

Coordinates not available but point plotted on map! -12 cows on Anne Margerett Beach plus 3 cows in enclosure at OB.

Virgin River basin to current lake edge herds: 2 large herds were observed well within LAME boundary. Numbers were large as expected from on the ground visible damage observations. One herd of 17 head were observed just North of the Virgin River bowl in uplands bordering West side of river. 20 head were observed within draw down zone near Fish Island (no longer island). Both herds were black and brown Hereford mix breed white faces. New calves observed with each herd.

Lat Long coordinates: N36°31.88 W114°20.81' -17 head Virgin Bowl

Coordinates not available but point plotted on map! -20 head near Fish Island

West side of Gold Butte cattle: Largest density of cattle in Park found here. 18 head observed in Northern-most herd well within Park boundary and North of Glory Hole near Overton Beach East. 2 cows were observed at Glory Hole beach. 6 head of cattle were observed just inland from Lime Cove. 8 head were observed in Catclaw Wash near the lake's edge.

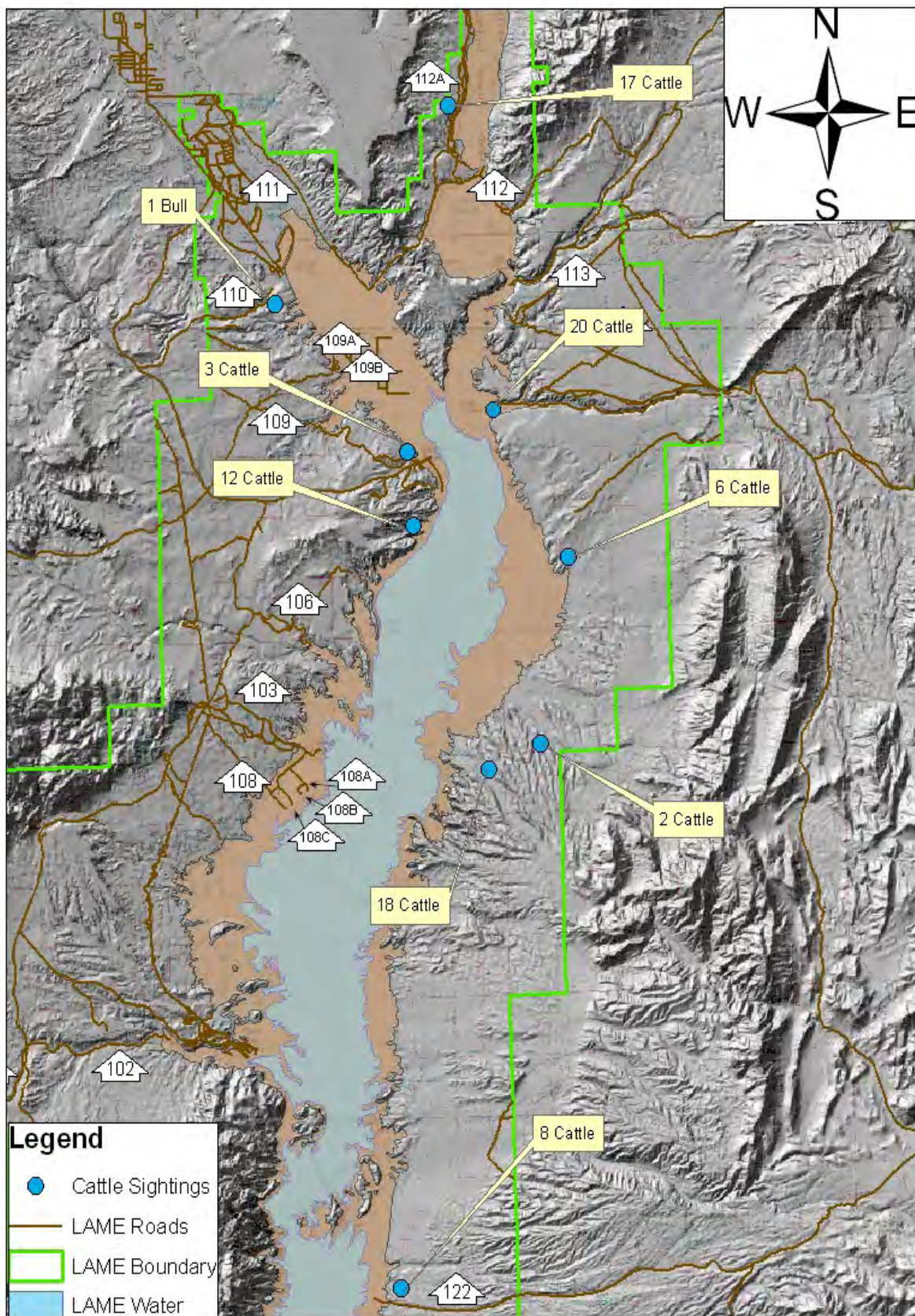
Lat Long coordinates: N36°22.31' W114°20.34' -18 head in N.

N36°22.66' W114°19.35' -2 head Glory Hole

N36°25.33' W114°18.73' -6 head Lime Cove

N36°14.88' W114°22.28' -8 head Catclaw Wash

Map of general Overton Arm area with points indicating cattle sightings:



ATTACHMENT C TO DECLARATION BY ALICE C. NEWTON

United States v. Bundy, No. 2:98-cv-531-LRH

Aerial Cattle Surveys

Bruce Lenon, pilot; Alice Newton, recorder/observer; Chris Roberts, observer; Toshi Yoshida, observer.

2/11/09 – Surveyed east side of Lake Mojave from Cottonwood East to Katherine, from lake to boundary.

2/12/09 – Surveyed Detrital valley area from lake to south boundary.

2/13/09 – Surveyed Hualapai Wash from lake to boundary, Grapevine Mesa north of Meadview, and Grapevine Canyon.

2/17/09 – Surveyed upper Overton Arm, Virgin and Muddy Rivers, from north boundary to Twin Springs Cove on east side, and to Stewarts Point on west side.

If lat/long coordinates conflict with comments, go with lat/long.

Date	Number	Location lat/long	Description	Comments
2/11/09	~ 25	N 35d 20.75m W 114d 33.56m		Portland Mine Road area
2/12/09	~ 9	N 35d 58.90m W 114d 32.23m		Detrital Valley
2/12/09	~ 15	N 36d 00.05m W 114d 32.64m	Hereford and Brangus(?), Calves present	Detrital Valley
2/12/09	4	N 36d 01.88m W 114d 27.98m	2 blacks, 2 browns	Detrital Valley
2/13/09	~3	N 35d 58.83m W 114d 07.87m	Herefords	Hualapai Wash - Check the malcomia in corral near intersection AR136 and AR134 Yes, we went flying on Friday the 13th
2/17/09	~17	N 36d 31.88m W 114d 20.81m	Blacks and browns	Virgin River above the bowl
2/17/09	~12		Blacks and browns	Ann Margaret Beach
2/17/09	3			In the pen at Overton Beach Marina
2/17/09	1	N 36d 29.10m W 114d 24.24m	Brindle	Bull? Very large animal, west side of the Arm
2/17/09	~20		Calves, white, browns, blacks, some white faces	East of Fish Island moving south along shoreline
2/17/09	6	N 36d 25.33m W 114d 18.73m		East side of the Arm
2/17/09	2	N 36d 22.66m W 114d 19.35m	browns	East side of the Arm

2/17/09	~18	N 36d 22.31m W 114d 20.34m		East side of the Arm
2/17/09	~8	N 36d 14.88m W 114d 22.28m		Catclaw Wash
2/17/09	1		burro	Weasel Hole, north of Catclaw Wash
2/17/09	3			Maint. reported walking along OB access road, could be same ones in pen

ATTACHMENT D TO DECLARATION BY ALICE C. NEWTON

United States v. Bundy, No. 2:98-cv-531-LRH

Aerial Cattle Survey February 15, 2011

Area was surveyed grid style via fixed wing aircraft starting from the west side of the Overton Arm at Echo Bay, going north to LAKE boundary, then east and south to just south of Catclaw Wash (AR122). A total of 125 cattle and 9 burros were observed. Individual ear tags and/or brands could not be observed due to aircraft speed and altitude.

Cattle were sighted well within LAKE boundary in all areas, with many crossing high-speed roads (Northshore Road and Valley of Fire Road). Many livestock trails (burro and cattle) were also observed from the air going to and from lake edge. Several of these small herds have the potential to impact the St. Thomas Townsite, Stewarts Point Cabinsites, Rogers Spring, Blue Point Spring, and large areas of rare plant and animal habitat, particularly gypsum which supports Las Vegas bearpoppy.

Due to the nature of the terrain, brush cover and aircraft speed, it is highly likely that animal populations were undercounted by as much as 50% to 60%.

One photo five of the animals in Valley of Fire Wash is included in this report.

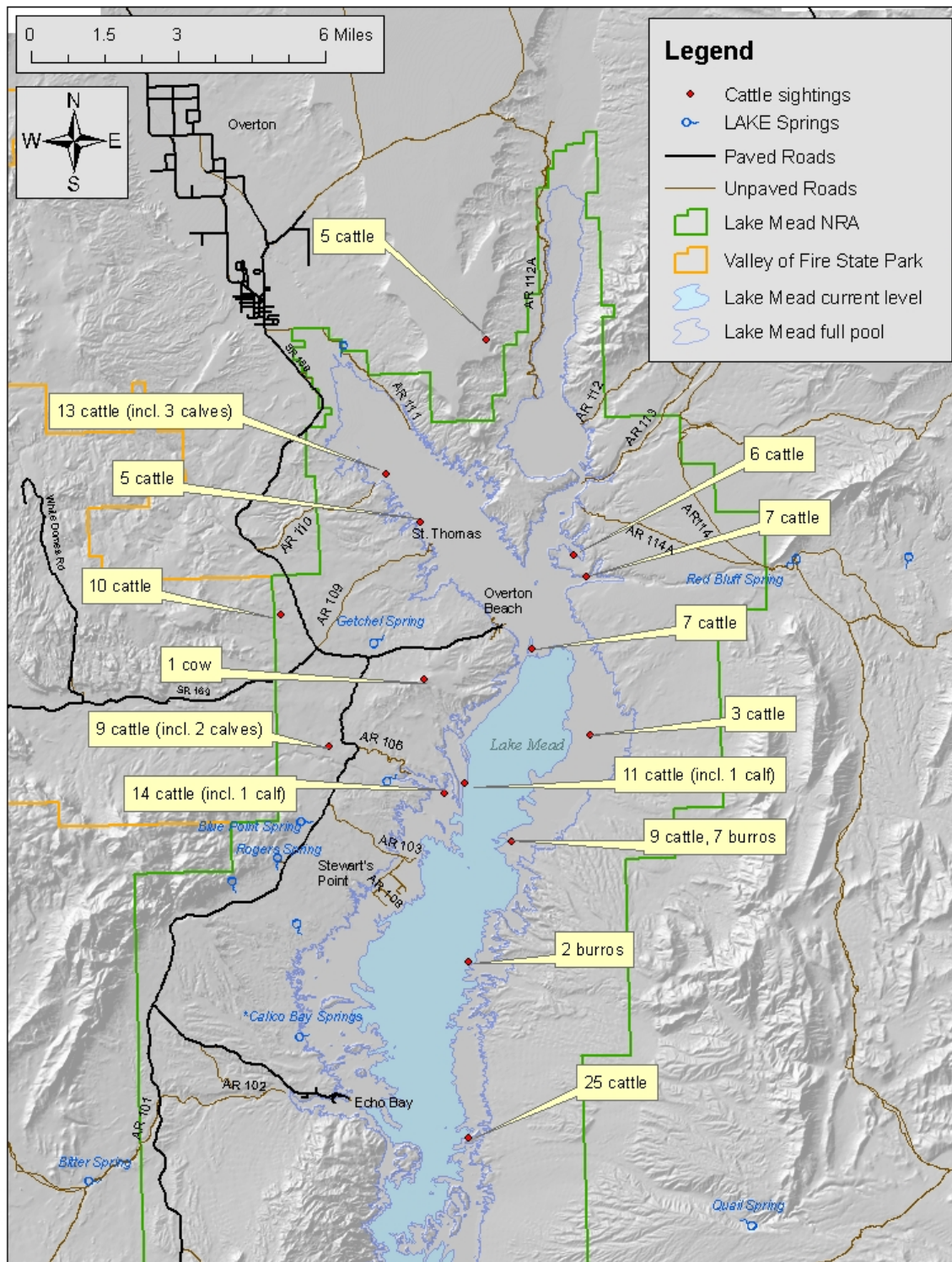
West side of the Overton Arm cattle sightings:

Lat/Long Coordinates:	36° 23.80'	114° 22.92'	14 head, incl calf - Fire Cove Wash
	36° 24.69'	114° 25.44'	9 head, incl 2 calves - Valley of Fire Wash
	36° 23.96'	114° 22.49'	11 head, incl 1 calf
	35° 27.06'	114° 26.41'	10 head
	36° 25.83'	114° 23.31'	1 head
	36° 26.33'	114° 20.93'	7 head
	36° 28.63'	114° 23.31'	5 head
	36° 29.50'	114° 24.03'	13 head, incl 3 calves

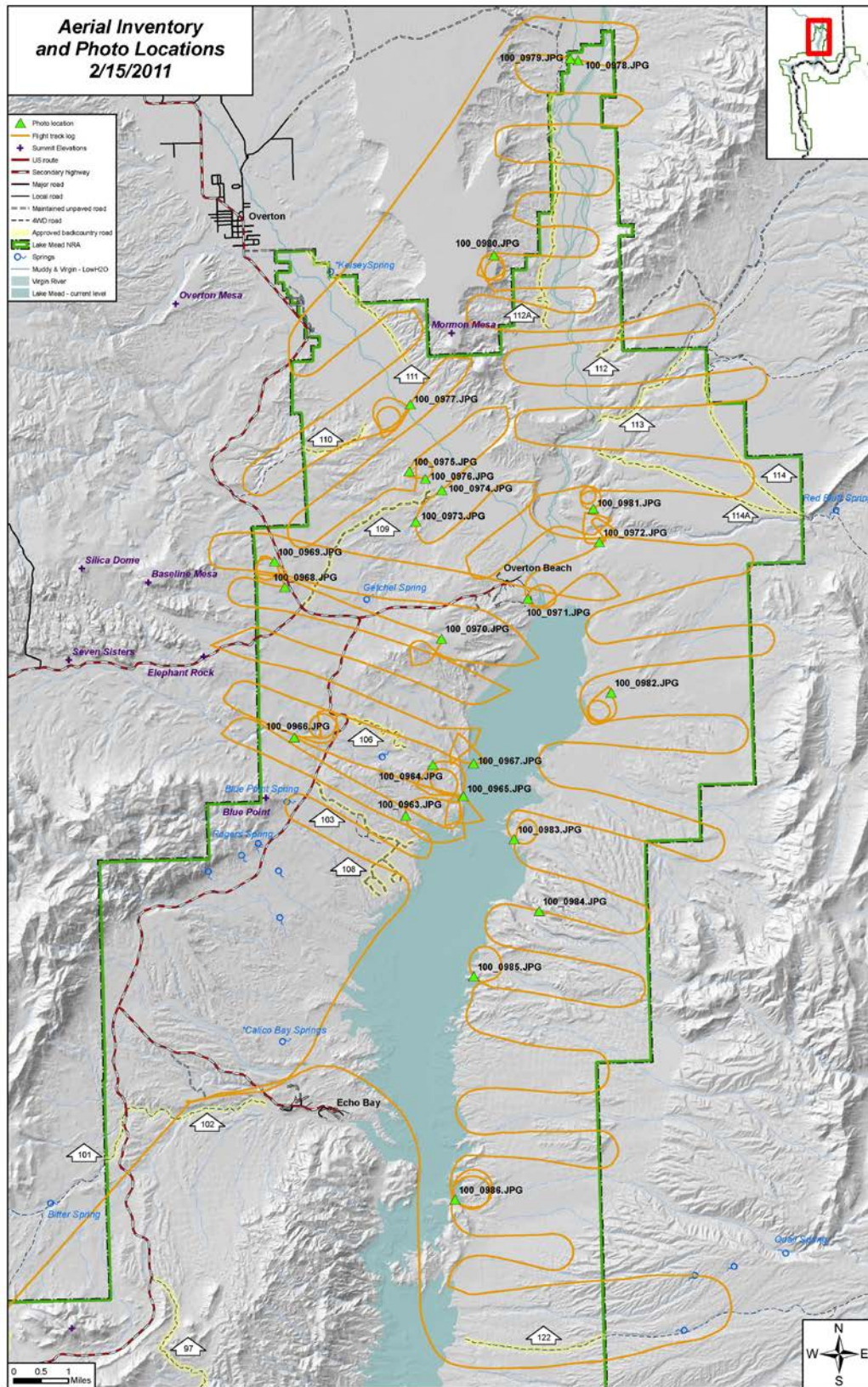
East side of the Overton Arm cattle sightings:

Lat/Long Coordinates:	36° 27.57'	114° 19.69'	7 head
	36° 31.85'	114° 21.75'	5 head
	36° 27.97'	114° 19.93'	6 head
	36° 24.76'	114° 19.70'	3 head
	36° 22.90'	114° 21.47'	9 head, 7 burros
	36° 20.80'	114° 22.51'	2 burros
	36° 17.66'	114° 22.61'	25 head - Preachers Cove

Map of general Overton Arm area with points indicating cattle sightings:



Aerial Cattle Survey - Fixed Wing Page <u>1</u> of <u>1</u>						
Date: 02/15/2011		Time Start: approx 09:00		Time Stop: approx 13:30		
GPS: Garmin tracklog						
Maps used: custom						
Pilot/Recorder/Observers: Bruce Lenon - pilot; Alice Newton - recorder; Cody Cole - Observer; Chris Roberts - observer						
Obsv. #	# Cattle	Latitude/ Northing	Long/ Easting	Photo #	Time Stamp	Comments
1				0963	9:59:45	cattle tracks/trailing
2	14	36 23.80	114 22.92	0964	10:01:39	incl calf - Fire Cove Wash
				0965	10:02:17	incl calf - Fire Cove Wash
3	9	36 24.69	114 25.44	0966	10:06:55	incl 2 calves - Valley of Fire Wash
4	11	36 23.96	114 22.49	0967	10:12:45	incl 1 calf
5	10	35 27.06	114 26.41	0968	10:23:51	bedded down
				0969	10:23:58	bedded down
6	1	36 25.83	114 23.31	0970	10:27:16	black bull (?)
7	7	36 26.33	114 20.93	0971	10:39:13	
8	7	36 27.57	114 19.69	0972	10:41:55	
9				0973	10:47:22	St. Thomas
				0974	10:47:48	St. Thomas
10	5	36 28.63	114 23.31	0975	10:50:23	black and white
				0976	10:50:35	black and white
11	13	36 29.50	114 24.03	0977	10:56:52	incl 3 calves
12				0978	11:10:30	Sand Mine
				0979	11:10:35	Sand Mine
13	5	36 31.85	114 21.75	0980	11:20:31	
14	6	36 27.97	114 19.93	0981	11:42:30	black and brown
15	3	36 24.76	114 19.70	0982	11:54:54	
16	9	36 22.90	114 21.47	0983	12:05:27	plus 7 burros
17				0984	12:09:35	trailing
18		36 20.80	114 22.51	0985	12:14:09	2 burros
19	1	36 17.66	114 22.61	none		
20	24	36 17.66	114 22.61	0986	12:23:11	Preachers Cove
Comments						
Began grid just north of Echo Bay - end grid just south of Catclaw Cove.						
Flight time total - 3.7 hours; Labor- Lenon, Newton, Roberts @4.5 hrs; Cole @ 3.5 hrs						
Costs - Aircraft - 3.7 @ \$225 = \$832.50; Lenon - \$260; Newton - \$227; Roberts - \$117; Cole - \$147						
Total direct cost \$ 1583.50						





Five of the nine cattle in Valley of Fire Wash.